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PATENT TRADEMARK OFFICE

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PATENT

Customer No. 22,852

Attorney Docket No. 5725.0960-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jean MONDET et al.

Application No.: 09/964,751

Filed: September 28, 2001

For: COSMETIC COMPOSITIONS
COMPRISING AT LEAST ONE
CONTINUOUS LIQUID FATTY
PHASE STRUCTURED WITH
POLYURETHANES,
POLYURETHANEUREAS, AND
POLYUREAS

) Group Art Unit: 1617

) Examiner: E. Webman

Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action mailed December 26, 2002, the Examiner has required restriction between the following groups of claims:

Group I: Claims 1-72, and 77, drawn to a composition;

Group II: Claims claim 73, drawn to a method of using; and

Group III: Claims 74-76, drawn to a method of making.

The restriction requirement, as set forth above and on page 2 of the Office Action, is respectfully traversed. However, to be fully responsive to the restriction requirement, Applicants elect, with traverse, the subject matter of Group I, claims 1-72, and 77, drawn to a composition.

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Applicants refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs Examiners as follows:

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining all of the groups together would constitute a serious burden. In particular, all of the claims relate to and recite, *inter alia*, "at least one continuous liquid fatty phase containing at least one hydrocarbon-based oil." See independent claims 1, 73, and 74. As such, Groups II and III would seem to encompass the search of the subject matter of Group I. Thus, for at least this reason, Applicants respectfully submit that the restriction requirement is improper. Accordingly, Applicants request that the requirement be withdrawn, as a search for each of these groups of claims should substantially overlap and not represent a serious burden to the Examiner.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, she is invited to call the undersigned at (202) 408-4328.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 27, 2003

By: Bryant L. Young
Bryant L. Young
Reg. No. 49,073

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